

Calendar No. 567

104TH CONGRESS }
2d Session }

SENATE

{ REPORT
104-352 }

CORPORATE SUBSIDY REVIEW, REFORM AND TERMINATION ACT OF 1995

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TOGETHER WITH

ADDITIONAL AND MINORITY VIEWS

TO ACCOMPANY

S. 1376

TO TERMINATE UNNECESSARY AND INEQUITABLE FEDERAL
CORPORATE SUBSIDIES



AUGUST 27, 1996.—Ordered to be printed

Filed under authority of the order of the Senate of August 2, 1996

U.S. GOVERNMENT PRINTING OFFICE

29-010

WASHINGTON : 1996

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Mr. STEVENS, from the Committee on Governmental Affairs,
submitted the following

REPORT

[To accompany S. 1376]

I. PURPOSE

The purpose of S. 1376, the Corporate Subsidy Review, Reform and Termination Act of 1995, is to create a Commission to fairly and independently review corporate subsidies and make recommendations to the President and the Congress for the retention, reform or termination of such subsidies.

II. BACKGROUND

The question of whether the Federal government should be providing subsidies to private, profit-making entities, and if so, what type of subsidies, has been an issue for many years. There have been recent efforts in the private sector to review corporate subsidies in a comprehensive manner. In May 1995, the Cato Institute issued a list of the corporate subsidies that it identified as ripe for termination by Congress. The Progressive Policy Institute also published a list of corporate subsidies it believes should be eliminated.

Senator McCain offered an amendment on October 26, 1995, during the Senate's consideration of Budget Reconciliation to eliminate 12 corporate subsidies that had been identified by Cato and the Progressive Policy Institute as amongst the most egregious. A point of order was raised that the amendment was not germane. The Senate failed to waive the point of order by a vote of 25 yeas to 74 nays. This led to the introduction of S. 1376.

These actions led the Committee to take action on S. 1376. The creation of an independent, bi-partisan Commission is designed to ensure that all Federal subsidies will be considered on their merits. If subsidies are warranted, they will withstand this scrutiny. A Commission will provide for a comprehensive and fair review through a process free from political pressures.

III. LEGISLATIVE HISTORY

S. 1376, the Corporate Subsidy Review, Reform and Termination Act of 1995, was introduced on November 1, 1995 by Senator McCain (for himself and Senators Thompson, Kerry, Feingold, Kennedy, and Coats) and referred to the Committee on Governmental Affairs.

HEARING

On March 5, 1996, the Committee held a hearing on the bill. The following witnesses appeared to present testimony on S. 1376: The Honorable John McCain, U.S. Senate, Arizona; the Honorable Fred Thompson, U.S. Senate, Tennessee; Stephen Moore, Executive Director, Cato Institute; Robert J. Shapiro, Founder and Vice President, Progressive Policy Institute; Martha Phillips, Executive Director, Concord Coalition Citizen's Council; and Ann McBride, President, Common Cause.

Senator McCain testified that since the nation's annual deficit and accumulated debt have forced Congress to make changes to social welfare programs it is only fair to make the corporate sector share the burden of budget cuts. Senator McCain, in support of creating a Commission as necessary to the process of eliminating corporate subsidies, stated:

An independent Commission with privileged and expedited procedures to ensure congressional action would depoliticize the process, guarantee that the pain is shared, and might be the only realistic means of achieving the meaningful reform that the public and our dire fiscal circumstances demand.

Senator McCain, as part of the hearing discussion and when introducing S. 1376 emphasized that the goal of the Commission is not to increase revenues or create new taxes. Rather, the Commission is designed to conduct a review and formulate recommendations to reform programs or policies that result in inequitable advantages for special interest groups.

Senator Thompson testified to the need for comprehensive legislation to address the issue of subsidies in a consistent manner. He noted that although progress has been made in some areas, the current process is piecemeal. Requiring the President and Congress to appoint Commissioners with expertise in the relevant areas, and forcing the President and Congress to review the Commission's recommendations would make it more difficult to ignore the work of this Commission. He stated,

Enactment of this legislation will demonstrate that Congress and the Executive branch are serious about addressing and correcting a system which the American public as

a whole sees as benefitting the few with access and influence, rather than serving the general public good.

Mr. Moore focused on the issue of spending. He recommended the Commission have a targeted amount of spending reduction and urged having the Commission concentrate on the spending side of the equation, rather than tax loopholes. In his opinion, corporate welfare was defined as “a specific targeted benefit the government is giving to a specific company or specific industry.” As an example, he did not view a cut in the capital gains tax rate as a corporate subsidy because it did not benefit only one industry or company. During questioning, Mr. Moore noted that, in his experience, there is general agreement between groups on the left, middle and right of the philosophical spectrum as to the most egregious examples of corporate welfare which warrant modification or termination.

Mr. Shapiro likened Federal corporate subsidies to trade protections, which can artificially raise an industry’s rate of return, thereby weakening market incentives for firms to become more efficient and productive. He also noted that subsidies create disadvantages for firms not receiving the subsidy and that the subsidies are largely found in sectors central to the commodity and manufacturing based economy of the past, while information-based businesses receive fewer subsidies. In addition, he estimated that of the \$53 billion in spending and tax subsidies that the Progressive Policy Institute proposed for elimination, \$16 billion in net benefits subsidies cost the lower four-fifths of income earners approximately \$7 billion a year. He acknowledged that some subsidies serve an important public policy function; however, once a program created to serve a legitimate public purpose has served its purpose, the continuance of the subsidy makes it an artificial subsidy which should be eliminated.

Martha Phillips of the Concord Coalition Citizens’ Council, testified both on the conceptual aspects and the mechanics of S. 1376. The Concord Coalition, a grassroots educational organization supporting a balanced Federal budget, is chaired by former Senators Warren Rudman of New Hampshire and Paul Tsongas of Massachusetts. Ms. Phillips testified that the process established under S. 1376 should not be a one-time process, but that the Commission should issue consecutive sets of recommendations over a period of time, rather than all at once. She felt that having no dollar target for savings was a better approach than choosing an arbitrary figure which may not be reached, since critics might focus solely on the dollar savings rather than the progress in eliminating unnecessary subsidies. Ms. Phillips made a suggestion that recommendations from the agencies to Congress be submitted as one bill rather than a series of bills. The budget reconciliation process was highlighted as one example.

Ann McBride of Common Cause also pointed out that “to address corporate welfare is not simply a congressional problem” but also one where the President must take a stand as well.

At the hearing, Chairman Stevens raised a concern regarding how the Commission would address the varied and complex considerations that led to the enactment of a payment, benefit, service or tax advantage that might be considered a corporate subsidy. He noted that some Federal subsidies may have been established in re-

sponse to other decisions made by Congress and approved by the President. For example, some subsidies are provided to offset requirements imposed on an industry by the Federal government. The U.S. shipping laws require that U.S. flag vessels carrying goods from the United States to foreign ports use an American built ship with an American crew. A subsidy is provided by the Federal government in this instance to offset the additional cost of the regulation. Without the subsidy, the public policy purpose for the regulation would not be achieved. To remove the subsidy without removing or reducing the regulatory burden could put the U.S. flag shipping industry out of the foreign trade business. Chairman Stevens held that for the Commission to conduct a complete review, it should be tasked with examining the original rationale for the subsidies and any related effects of reforms or termination of those subsidies, and should include those findings in its deliberations. A section was included in the Committee substitute amendment to address this issue.

Senator Levin raised a number of concerns during the hearing, many of which have been addressed in the Committee substitute. His concerns included the need to clarify and narrow the Commission's mandate to focus on corporate entities; exclude from consideration such matters as education, worker safety, and unfair trade practices; increase bipartisan Congressional participation in the nomination process for individual Commissioners; and lengthen the specified deadlines for Commission recommendations, Presidential review and Congressional deliberation to provide time to examine the issues. Senator Levin also expressed strong reservations about the time limits on Senate debate and the lack of subject matter restrictions on Senate floor amendments, should a bill reducing corporate subsidies be brought before the full Senate.

DISCUSSION

S. 1376 as amended creates a nine-member Commission to recommend which Federal corporate subsidies, including tax advantages, should be retained, reformed or terminated. Three of the members of the Commission are appointed by the President (one of which the President will appoint as Chairman); two are appointed by the Speaker of the House, one is appointed by the House Minority Leader, two are appointed by the Senate Majority Leader, and one is appointed by the Senate Minority Leader. The President and Members of Congress responsible for making the appointments shall consult with each other prior to making their appointments to ensure a board and fair representation of views on the Commission. The process for establishment of the Commission shall terminate if the President does not submit three names to the Senate after the January 1997 inauguration and prior to January 31, 1997.

The head of each Federal agency is required to submit by April 1, 1997 or the date the budget documents are submitted to Congress in 1997, whichever is earlier, a list identifying all programs or tax laws that the head of the department or agency determines provide inequitable subsidies. The list must include a detailed description of the program or tax law in question, a statement detailing the extent to which the payment, benefit, service, or tax advan-

tage meets the criteria of a “inequitable Federal subsidy” as identified in Section 4 of S. 1376, a statement summarizing the legislative history and purpose for the subsidy as well as the laws related to the subsidy, and a recommendation regarding the subsidy identified.

Subsidies benefiting several groups of entities are explicitly excluded by Section 4(1)(A) and (B) from those Federal subsidies that may be reviewed by the Commission. The excluded subsidies are those that benefit non-profit organizations meeting the requirements of section 501(c)(3) and 501(a) of the Internal Revenue Code, state governments, local governments, and Indian Tribes.

An inequitable Federal subsidy is defined as a payment, benefit, service or tax advantage that is provided by the Federal government to a corporation, partnership, joint venture, association, or business trust without a reasonable expectation that there would be a return or benefit to the public at least as large as the payment, benefit, service, or tax advantage. It is intended that in calculating the return and benefits to the public, the Commission consider both monetary and non-monetary benefits. In addition, the inequitable Federal subsidy must provide an unfair competitive advantage or financial windfall and may not include the following:

- (1) certain research and development awards.
- (2) items which primarily benefit the public health, safety, the environment or education,
- (3) items necessary to comply with international trade or treaty obligations,
- (4) items certified by the U.S. Trade Representative as necessary, or
- (5) items for the procurement of property or services by the Federal government.

The definition of an “inequitable Federal subsidy” includes an exemption for certain research and development. It was agreed that research and development activities that met four criteria are exempt from the Commission’s review. The criteria are enumerated in Section 4(4)(A) as follows:

(i) “research and development in the broad public interest awarded on the basis of a peer review or other open, competitive, merit-based procedure.” This recognizes that some research and development activities may provide a large private return, but only a small return to the public; and these are not exempt from review by the Commission. Further, this is intended to ensure that research and development activities that received a direct funding grant, either within an agency’s budgetary discretion or through a line-item appropriation, or in some other way were not competitively awarded, are subject to review by the Commission.

(ii) “is for a purpose consistent with the mission of the agency.” This is to ensure that the research and development activities are appropriate for the agency in its role within the Federal government.

(iii) “supports competing technologies at levels appropriate to their potential, as determined by an appropriate priority setting process.” This recognizes that some technologies may receive support to the detriment of technologies that compete with them because of influence by powerful allies, or for reasons that, while pos-

sibly once valid, are no longer valid. This provision attempts to ensure that the technology options selected by an agency went through a reasoned priority selection.

(iv) “research and development that the private sector cannot reasonably be expected to undertake without Federal support at a level or in a time frame consistent with the payment, benefit, service, or tax advantage’s potential to provide broad economic or other public benefit.” This provision recognizes that the private sector can and should conduct research and development; however, there are legitimate reasons for Federal subsidies to the private sector as an incentive to achieve certain public policy objectives. Federal funding may be necessary to offset financial risks and market failures in financing research and development, may be key in speeding up certain research and development, or may otherwise add to the activity by providing additional resources. In an era of intense global competition, such Federal support can play a crucial role in reaping the broad public rewards of research and development.

The exclusion in Section 4(4)(B) for subsidies primarily benefiting “public health, safety, the environment and education” is intended to be interpreted broadly to exclude, for example, health care subsidies, worker safety programs, work-study education and job training programs, and similar Federal activities.

The Committee also took special note of the Federal government’s role in the area of international trade. In establishing the Commission’s review of Federal subsidies, it is not the Committee’s intent to unduly disadvantage U.S. business interests as they compete in the international marketplace. It is recognized that foreign governments frequently subsidize business interests in their own countries. Eliminating a particular program or subsidy might make sense in a purely domestic context, but such action could place U.S. company at a severe disadvantage when competing with a foreign company which has the benefit of a subsidy from its government. A U.S. government subsidy may have been instituted in order to offset a similar subsidy to foreign competitors by foreign governments, with the intent of leveling the playing field for U.S. industry. To eliminate such a subsidy not only affects the direct U.S. business interests in global competition, but also reduces the leverage of the U.S. government in trade negotiations. Having matched a foreign government subsidy, the U.S. government may call for negotiations to mutually end the practice.

Section 4(4)(C) exempts from the definition of “inequitable Federal subsidy” any payment, benefit, service or tax advantage that “is necessary to comply with international trade or treaty obligations.” This recognizes that the U.S. government has entered into a variety of international trade agreements and international treaties that are not subject to review by the Commission. The circumstances and rationale leading to any such agreement are not the concern of the Commission. If the U.S. is a party to an international trade agreement or an international treaty, that obligation must be met.

Section 4(4)(D) provides an exemption from the definition of “inequitable federal subsidy” for any payment, benefit, service, or tax advantage that “is certified by the United States Trade Representative as specifically intended and as substantially needed to protect

the foreign trade interests of the United States.” As part of its agency plan under Section 6(a)(3), the United States Trade Representative (USTR) is specifically required to survey all federally supported international trade programs for certification under 4(4)(D). This ensures that the USTR will report to the Commission not only on international trade programs under its direct jurisdiction but will play a role in reviewing trade-related programs throughout the Federal government.

The USTR is responsible for directing all trade negotiations and formulating trade policy for the United States. Utilizing the expertise of that office to review all trade programs will ensure that U.S. trade interests are protected. A concern was expressed that in identifying subsidies in the international arena, a foreign country might be in a position to challenge U.S. trade policies within the World Trade Organization. The possibility was raised that Congress merely considering a subsidy for elimination could be cited by a foreign country as evidence that the “payment, benefit, or tax advantage” was not legitimate or justified. The USTR is the organization within the Executive Branch that will be sensitive to the potential for global trade challenges. The inclusion of USTR in reviewing and certifying a subsidy as “specifically intended and as substantially needed to protect the foreign trade interests of the United States” adds needed flexibility to ensure that the important objective of the legislation does not have an unintended consequence of handicapping U.S. trade policy.

The USTR will provide the Commission with a detailed statement of the reasons each program was or was not certified under the test of “specifically intended and as substantially needed.” This explanation will provide a better understanding of the rationale used by the USTR in reaching its determination on the merits of each program.

The Commission is required to hold public hearings on the recommendations included in the lists provided by the head of each agency. All testimony presented before the Commission at a public hearing shall be given under oath. No later than November 30, 1997, the Commission shall submit a report to the President containing the Commission’s findings and recommendations for termination, modification, or retention of each of the inequitable Federal subsidies. Once the report has been presented to the President, the Commission is required to provide to any Member of Congress, upon request, the information used by the Commission in making its recommendations.

By December 31, 1997, the President must report to the Commission and to Congress on approval or disapproval of the Commission’s recommendations. If the President approves all the recommendations, the President certifies such approval and submits the recommendations to the Congress. If the President disapproves of the recommendations, in whole or in part, the President must report to the Commission and the Congress the reasons for that disapproval. The Commission must then no later than February 1, 1998, submit a revised list of recommendations to the President. If the President fails to certify to Congress his approval of the entire package of recommendations by February 15, 1998, the process is terminated.

If the President submits the Commission's recommendations to the Congress, expedited procedures are established for consideration in accordance with the rules of each House similar to those rules governing consideration of Budget Reconciliation.

COMMITTEE ACTION

The Committee considered S. 1376 at a business meeting held July 25, 1996. Chairman Stevens (for himself and Senators McCain and Thompson) presented an amendment in the nature of a substitute.

The Stevens-McCain-Thompson substitute made several changes in the procedural process of the bill and incorporated language to address the Federal government's role in research and development, trade, public health and safety, environment and education programs. Of particular importance to Senators Glenn and Lieberman was the inclusion of language they proposed detailing the treatment of research and development and trade programs.

Without objection, two technical corrections were made in the substitute amendment; and it was adopted by voice vote.

Senator Levin offered a series of four amendments to S. 1376 as amended by the substitute.

(1) In the definition of "inequitable Federal subsidy", he moved to strike the word "entity" and insert a "corporation, partnership, joint venture, association, or business trust". The change is intended to focus the Commission's review on established business interests, as opposed to individuals or sole proprietors. The term "association" is intended to be interpreted broadly to include not only particular businesses such as a savings and loan association, but also trade associations and other collections of individual companies or industries that may receive inequitable Federal subsidies.

(2) In the definition of "inequitable Federal subsidy", he moved to insert language stating that in determining whether a corporate subsidy is "inequitable," the Commission may consider both quantifiable and nonquantifiable benefits. This change would make it clear that the Commission should look beyond dollar values to consider intangible values.

(3) To strengthen the restriction on Senate floor amendments to legislation modifying or terminating inequitable Federal subsidies under the bill's fast-track process, he moved to replace the "relevancy" requirement with a "germaneness" requirement. This stricter requirement is intended to ensure that Senate floor amendments are confined to the subject matter already addressed in the underlying legislation, in order to reduce the likelihood of extraneous amendments and to protect the rights of Senators to debate important proposals that failed to win Committee approval.

Without objection, the first three Levin amendments were adopted en bloc by voice vote.

(4) To eliminate time restrictions on floor debate, Senator Levin moved to strike the 30-hour limit for debate on the bill, the one-hour limit for debate on first-degree amendments, and the half-hour limit for debate on second degree amendments.

Stating opposition to the amendment, Senator McCain expressed the concern that leaving the bill and amendments open to filibuster

would effectively kill congressional action and reiterated the need for some type of fast-track process.

Also stating opposition, Senator Thompson noted the well-vetted procedures contained in the legislation for executive branch and congressional review.

The Levin amendment to eliminate time restrictions was defeated on a roll call vote of 6 Yeas; Senators Cohen (by proxy), Glenn, Levin, Pryor (by proxy), Akaka, and Dorgan (by proxy), and 7 Nays; Senators Stevens, Thompson, Domenici (by proxy), Cochran (by proxy), McCain, Smith, and Lieberman.

In response to concerns that subsidy reforms may be hurried through without comment on the floor, Chairman Stevens proposed an amendment to permit extension of debate on an amendment beyond the one hour limit. Based on Section 305(b)(2) of the Budget Act, this amendment permits extension of debate by the bill manager, the Majority Leader or the Minority Leader. The extension for debate on amendments occurs within the 30 hour overall limit on debate. The Committee agreed to this by voice vote.

The Committee then voted to favorably report S. 1376, as amended, by a vote of 7 Yeas: Senators Stevens, Cohen (by proxy), Thompson, Cochran (by proxy), McCain, Smith, Glenn, Lieberman, and Akaka, to 1 Nay: Senators Levin, Roth (by proxy), Domenici (by proxy), and Pryor (by proxy). When proxies are considered, the Committee voted 9 to 4 in favor of the bill.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Title

This section states that the short title of the bill, and updates the Act's year to 1996.

Section 2. Findings

This Section lists Congressional findings. These state that some circumstances, including abuse, obsolescence, and anti-competitiveness, can render a corporate subsidy undesirable or unnecessary. The findings declare that such subsidies are unfair to taxpayers and that Congress and the President have been incapable of systematically identifying and evaluating corporate subsidies, thus a Commission is essential to a comprehensive review of the problem.

Section 3. Purpose

This section enunciates the purpose of the Act. The section was modified from S. 1376 as introduced to emphasize that fairness and deliberation are key characteristics of the procedure set up under the bill and that the corporate subsidies to be targeted are those that are unnecessary and inequitable.

Section 4. Definition

This section defines the corporate subsidies that the Commission should review. This section only defines what is an "inequitable Federal subsidy" because the intent of S. 1376 is to invite recommendations for the retention, reform or termination of a subsidy; and forcing the characterization of a subsidy as "unnecessary"

at the outset, could mistakenly suggest that termination is the preferred option under this Act.

The definition of an “inequitable Federal subsidy” as a payment, benefit, service, or tax advantage provided by the Federal Government and meeting certain criteria is meant to provide guidance to the agencies as they prepare their lists and to the Commission as it reviews the lists provided to it by Federal agencies and departments and as it performs its duties under Section 5(b).

Under Section 4(l), the Federal subsidies to be reviewed and subject to reform or termination are those provided to a “corporation, partnership, joint venture, association, or business trust.” Individuals were specifically excluded from this list.

Section 4(l)(A) and (B) expressly excludes organizations that are taxed as nonprofits, state governments, local governments, and Indian Tribes.

Section 4(4) excludes certain categories from the review of the Commission, as discussed earlier in this report.

Section 5. The Commission

This section describes the duties, scope and composition of the Commission. Section 5(a) establishes the “Corporate Subsidy Review, Reform and Termination Commission.” Section 5(b) outlines its duties. The Commission’s first duty is to examine the Federal Government’s programs and tax laws and through this process to identify the programs and laws that provide “inequitable Federal subsidies” as defined in Section 4.

Section 5(b) establishes the three duties of the Commission. The Commission must examine the programs and tax laws of the federal government and identify those that provide inequitable federal subsidies, as defined in Section 4 of this Act. The Commission must review these inequitable federal subsidies. Then, the Commission must submit a report with recommendations for the subsidies’ retention, reform or termination that the Commission is required to submit to the President and Congress pursuant to section 6(b).

Section 5(c) declares that this Act is not intended to result in the creation of new programs or taxes, but rather to provide a review of existing programs and tax laws in order that they may be fairly and equitably utilized. The Commission is not permitted to recommend the termination of federal agencies or departments.

Section 5(d) states that the Commission to be one pursuant to the Federal Advisory Committee Act (5 U.S.C. App.).

Section 5(e) outlines how the Commission members and staff will be appointed. The Commission shall have nine members. The President shall appoint three; the Speaker of the House of Representatives shall appoint two; the Minority Leader of the House of Representatives shall appoint one; the Senate Majority Leader shall appoint two and the Senate Minority Leader shall appoint one. Prior to the appointment of the Commissioners, the President, the Speaker, the Senate Majority Leader and the Minority Leaders of the House of Representatives and the Senate are required to consult on the possible candidates for appointment. This is required in order to seek equitable representation of the various points of view needed for a fair examination, review and report the Commission is required to make under Section 5(b). Section 5(e)

also provides that the Chairman is appointed by the President, and the subsection establishes the expertise that the appointees as a group are required to possess.

Section 5(f) provides that each Member of the Commission is to serve until the termination of the Commission.

Section 5(g) states that the Commission must conduct its first meeting no later than April 1, 1997. Each meeting must be open to the public. The Chairman may close the meeting when classified information, trade secrets or personnel matters are discussed. All proceedings, information and deliberations of the Commission must be available to the relevant Congressional Committees.

Section 5(h) provides that a vacancy on the Commission is to be filled in the same manner as the original appointment.

Section 5(i) describes the rate of pay and the travel expenses of each Commissioner and the Chairman.

Section 5(j) states that the Chairman is to appoint a Director and that the Director cannot have served on any of the entities or industries that are likely to be subject to the Commission's review. The Director must submit periodic reports on administrative and personnel matters to the Chairman of the Commission and the Committee on Government Affairs in the Senate and the Committee on Governmental Reform and Oversight in the House of Representatives.

Section 5(k) limits the number of personnel and analysts that may be detailed from federal agencies that deal directly and indirectly with the federal subsidies the Commission intends to review. This subsection also limits staff size to 25, including detailees, unless the Commission first notifies the Committee on Governmental Affairs in the Senate and the Committee on Government Reform and Oversight in the House of Representatives. Also, the Comptroller General of the United States may provide assistance to the Commission after consultation with Congress.

Section 5(l) permits the Commission to procure experts and consultants, and, to the extent funds are available, lease space and acquire personal property.

Section 5(m) authorizes the appropriation of funds to the Commission as are necessary for the Commission to carry out its duties. This subsection also authorizes such funds as are necessary for the Comptroller General to carry out its duties outlined in the Act under section 5(k) and section 6(b).

Section 6. Procedure for making recommendations to terminate corporate subsidies

This section sets forth the actions required of Federal departments and agencies in preparing a list of inequitable Federal subsidies to be submitted to the Commission for review. It provides specific guidance for the contents of the list to include (1) a detailed description of each program or tax law in question; (2) a statement detailing the extent to which a payment, benefit, service, or tax advantage meets the definition of "inequitable Federal subsidy"; (3) a statement summarizing the legislative history and purpose of such payment, benefit, service, or tax advantage and the laws or policies directly or indirectly giving rise to the need for the program or tax

law; and (4) a recommendation to the Commission for its report to the President and the Congress.

Section 6(a)(3) sets forth a special review requirement for the United States Trade Representative to review and certify all Federally supported international trade programs in all Federal agencies. The Trade Representative is required to provide a detailed statement of the reasons a program or benefit is or is not specifically intended and substantially needed to protect the foreign trade interests of the United States.

Section 6(b) Review and Recommendations by the Commission establishes the process for review and reporting to the President and Congress.

The Commission is required to conduct public hearings on the agency recommendations, and the Comptroller General must assist the Commission and also submit a report on the agency and department list to the Congress and the Commission. Changes that add, delete or modify a payment, benefit, service, tax advantage on the agency and department list must be reviewed at a public hearing and justified in the Commission report to the President. This section requires the Commission to report its findings in detail, discussing the effect of the recommendations on other policies and laws. The Commission must submit these recommendations to the President by November 30, 1997, and to the Congress, upon request, any time after submission to the President.

Section 6(c) covers the review of the Commission's recommendations by the President. No later than December 31, 1997, the President must submit a report to the Commission containing the President's approval or disapproval of the recommendations. If the President approves all recommendations, he is to send certification of approval to Congress along with the Commission recommendations. If he disapproves the recommendations in whole or in part, he must submit his reasons to the Commission, which must submit a revised list to him by February 1, 1998. The President must approve and certify an entire package of recommendations by February 15, 1998 at the latest; otherwise the process established under the Act is terminated.

Section 7. Congressional consideration

This section provides the procedures for congressional review of the Commission's recommendations if forwarded by the President.

Section 7(a) requires that if the President submits recommendations, they must be accompanied by information including the rationale for the recommendations and the estimated fiscal, economic and budgetary impact of accepting them.

Section 7(b) requires the President to submit the recommendations on the same day to the Senate and the House of Representatives. If either body is not in session, delivery is to the Secretary of the Senate or the Clerk of the House. The recommendations are to be printed in the Federal Register following submission.

Section 7(c) establishes the procedure for introduction of the recommendations as legislation. Within 14 calendar days in session after the recommendations are received, the Senate Majority Leader, or his designee, and the House Speaker, or his designee, must introduce a bill or bills implementing the Commission's rec-

ommendations. The bill sponsors anticipate that the Majority Leader or the Speaker would designate the Minority Leader in his respective House of Congress if he is not interested in introducing the measure. More than one bill must be introduced if that is necessary to ensure that all recommendations will be reviewed by the authorizing committee responsible for their implementation.

Section 7(d) provides for committee consideration of any legislation introduced. This section gives each respective authorizing committee 120 calendar days to review, modify and report on the bill under its jurisdiction. After this period, if no action has been taken by the authorizing committee to report the bill, the committee is discharged from further consideration.

Section 7(e) provides for the Senate and Section 7(f) provides for the House procedures after the time period of the authorizing committees has concluded. Upon reporting or discharge, all bills must be referred to the Senate Governmental Affairs Committee or the House Committee on Government Reform and Oversight. These committees then have no more than 10 calendar days in session to consolidate all bills into one piece of legislation and to report that bill for consideration in their respective bodies.

Section 7(e) details the procedures for Senate floor consideration. Debate in the Senate on the bill reported by the Governmental Affairs Committee and all debatable motions and appeals, is limited to no more than 30 hours, with a one hour limit on amendments and a one half hour limit in second degree amendments. Other fast track restrictions limit floor action, including a requirement that all amendments be germane to the bill reported by the Governmental Affairs Committee. The bill further sets a five-hour limit on debate in the Senate on the conference report.

Section 7(f) details the procedures for consideration in the full House of Representatives.

Section 7(g) clarifies that the special procedures set forth in the legislation for the House of Representatives and the Senate are in compliance with the rules of each House, and are subject to the Constitutional power of either House to change its rules.

V. REGULATORY IMPACT STATEMENT

Paragraph 11(b)(1) of Rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate “the regulatory impact which would be incurred in carrying out the bill.”

The Creation of the Corporate Subsidy Review, Reform and Termination Commission would not have a significant regulatory impact on the public, nor would it constitute an undue regulatory burden on any government agency. The legislation is submitted to create a Commission to review a list of Federal subsidies put together by the Federal agencies which administer them, make recommendations for their retention, reform or termination, and to report to the President and Congress with those recommendations. The legislation also provides procedures for the disposition of these recommendations by the President and Congress.

VI. CBO COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 29, 1996.

Hon. TED STEVENS,
*Chairman, Committee on Governmental Affairs, U.S. Senate, Wash-
ington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1376, the Corporate Subsidy Review, Reform, and Termination Act of 1996, as ordered reported by the Senate Committee on Governmental Affairs on July 25, 1996. Assuming appropriation of the necessary funds, CBO estimates that enacting S. 1376 would increase costs to the federal government by between \$3 million and \$3.5 million in fiscal year 1997, and by about \$3 million in fiscal year 1998. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

Enacting this legislation could lead to the reform or elimination of existing subsidies to businesses, and ultimately to significant savings to the federal government. However, because any change in existing subsidies would depend on future legislation, S. 1376 would have no direct budgetary impact aside from the administrative costs mentioned above.

Bill Purpose.—S. 1376 would create a nine-member commission to review and make recommendations on existing payments, benefits, services, or tax advantages provided by the federal government to businesses. The bill would exclude from review certain subsidies, including those that benefit or support research and development, public health and safety, the environment, education, foreign trade, and certain competing technologies.

The bill would require each agency to identify, in its budget justifications for fiscal year 1998, all programs or tax laws that the agency determines provide an inequitable subsidy. As part of that process, the bill would require the Office of the United States Trade Representative to review all foreign trade programs and to certify which programs are necessary to protect foreign trade interests. By November 30, 1997, the commission would be required to submit its recommendations for reform or termination to the President, who would then have until December 31 to accept or reject the commission's report. If the President rejects the report, the commission would have until February 1, 1998, to submit a revised list of recommendations. If the President does not accept the revised list within 15 days, the review and reform process would terminate. If either the first list or a revised list of recommendations is approved, the Congress would consider a bill or bills implementing those recommendations under procedures delineated in S. 1376. The commission would terminate on September 1, 1998.

Commissioners would be paid for time spent performing commission business, as well as for any travel expenses. S. 1376 would allow the commission to hire a staff director and up to 24 additional staffers. To exceed the limitation on the number of staffers, the bill would require the commission to first notify the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight in the House. In addition, the bill

would allow the commission to enter into an agreement with the General Accounting Office (GAO) to detail GAO employees to the commission.

Federal Budgetary Impact.—CBO estimates that implementing S. 1376 would cost the federal government between \$3 million and \$3.5 million in fiscal year 1997 and about \$3 million in fiscal year 1998, assuming appropriation of the necessary amounts. The estimated total for 1997 includes about \$2.3 million in costs to the commission, about \$0.3 million in costs to GAO, and between \$0.5 million and \$1 million in extra costs for other federal agencies. For 1998, the total includes about \$2.4 million in costs to the commission, about \$0.3 million in costs to GAO, and less than \$0.5 million for other federal agencies. The bill would authorize the appropriation of such sums as may be necessary for the commission and GAO to carry out their duties under the bill.

CBO assumes the commission would begin operation by March 1997 and continue until September 1998. The estimate for the commission's costs assumes a staff of 25 through January 1998. At that time, the commission's responsibilities would largely cease. Thus, over the remaining seven months, CBO assumes the commission would require fewer individuals. For the entire 18-month period of its operation, CBO estimates that the commission would cost about \$4.7 million. The estimated costs are based on the bill's provisions for pay and travel and on costs of other federal commissions.

The cost of detailing GAO employees to the commission is uncertain at this time because no agreement has been reached about the number and level of staff to be assigned to support the work of the commission. However, assuming that three to five senior employees would be assigned for this purpose, estimated costs—including pay and benefits—would range between \$0.4 million and \$0.8 million through August 1998. We used the midpoint of this range in the cost totals cited above.

Mandates Statement.—S. 1376 contains no intergovernmental or private-sector mandates as defined in Public Law 104-4 and would not affect the budgets of state, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter and Mary Maginniss (for federal costs), and Matthew Eyles (for the private-sector impact).

Sincerely,

JUNE E. O'NEILL,
Director.

VII. ADMINISTRATION STATEMENT

The Committee requested the views of the Administration by letter dated April 8, 1996, addressed to Alice M. Rivlin, Director, Office of Management and Budget. No response has been received.

VIII. ADDITIONAL VIEWS OF SENATOR WILLIAM V. ROTH, JR.

The Corporate Subsidy Review, Reform, and Termination Act of 1996 will create a commission to identify and make recommendations on matters that are within the jurisdiction of the Senate Committee on Finance and the House of Representatives' Committee on Ways and Means. This work will be redundant and unnecessary. It is exactly the type of work that the Senate Committee on Finance and the House of Representatives' Committee on Ways and Means has done in the past and will continue to do in the future.

Currently, the Senate Committee on Finance and the House of Representatives' Committee on Ways and Means are charged with the responsibility of reviewing all "corporate loopholes". Through public hearings, research, and careful analysis, the committees are able to identify whether or not a provision is in fact a corporate loophole. In some instances, what may appear to be a corporate loophole on its face, is, in fact, not a corporate loophole. The Corporate Subsidy Review, Reform, and Termination Act of 1969 does not provide for the same level of detailed analysis.

In the Balanced Budget Act of 1995, the Senate Finance Committee and the Ways and Means Committee proposed closing more than \$56.2 billion of corporate loopholes over a 10-year period. Similarly, in the Small Business Job Protection Act of 1996, the committees proposed closing more than \$25.4 billion of corporate loopholes over a 10-year period. These corporate loopholes included such items as: the disallowance of the interest deduction for corporate-owned life insurance policy loans, repeal of the tax breaks for companies doing business in Puerto Rico, elimination of the interest allocation exception for certain nonfinancial corporation, repeal of the bad debt reserve deduction for thrift institutions, and the repeal of the business exclusion for energy subsidies. The committees continue to search for other corporate loopholes and develop appropriate modifications to the Internal Revenue Code.

Because the commission will be reviewing matters within the jurisdiction of the Senate Committee on Finance, the Senate Committee on Finance has requested sequential referral of this bill. To date, the committee has not received a response to its request.

BILL ROTH.

IX. MINORITY VIEWS OF SENATOR CARL LEVIN

I voted against S. 1376 in committee, not because I oppose the bill's purpose, but because the fast-track procedures used by the bill create a legislative freight train that could ride roughshod over important programs without the usual opportunities for debate.

This bill seeks to create a legislative process similar to the one used to recommend military base closings. The bill would use this process to identify and eliminate "inequitable" federal corporate subsidies. The goal is a laudable one. The problem is that what one Senator sees as inequitable corporate welfare, another sees as a critical, cost-effective program.

The bill tries to address this problem by establishing a process that encourages thoughtful analysis of the problem. The process would begin with agency recommendations, include public hearings and GAO analyses, and require a preliminary list of Commission recommendations subject to Presidential review, before producing a final list of Commission recommendations that the President would have to accept or reject without change. If the President decided to forward the Commission recommendations to Congress, the bill would require prompt introduction of one or more bills implementing the recommendations, a 120-day limit on Committee review, consolidation of all Committee-reported bills into a single legislative vehicle, and prompt placement of that legislation on the calendar of the full Senate.

These procedures are designed to force development of a comprehensive proposal to reduce corporate welfare and bring that proposal to the full Senate for consideration, and I have no quarrel with them up to the point described.

What I do have a quarrel with is what happens when this legislative freight train hits the Senate floor. In addition to fast-track procedures to get the legislation onto the Senate calendar, S. 1376 would limit Senate consideration of that legislation, no matter how far-reaching, to a total of 30 hours, including a 1-hour time limit on any amendment. It would also limit Senate consideration of any conference report to a total of 5 hours. It is these time limits on Senate debate that threaten adequate debate of important issues.

To understand the nature of the threat, it helps to know that, when introduced, S. 1376 contained no subject matter limitations on the amendments that could be offered to the corporate subsidy bill during Senate floor debate. The bill's blanket 1-hour time limit applied to every amendment no matter what topic was addressed, from abortion, to gun control, the minimum wage, Medicare, you-name-it. When it was brought to the attention of the bill sponsors that this provision opened the door to loading down the bill with controversial amendments unrelated to reducing corporate subsidies, the committee substitute to S. 1376 added a relevancy requirement for Senate floor amendments. During markup, the Com-

mittee further restricted Senate floor amendments by accepting my amendment to replace the relevancy requirement with a germaneness requirement.

But even this germaneness restriction is not enough. The boundaries of germaneness have recently become less certain. Germaneness would not, for example, necessarily bar Senate floor amendments addressing topics not included in the underlying bill. An amendment could possibly be ruled germane if, for example, it sought to reinstate a Commission recommendation eliminated in committee, or presented a proposal that had been offered during markup, but failed to win committee approval. Amendments to eliminate or reduce vital programs, which were rejected in committee, could possibly be deemed germane and presented on the Senate floor with a 1-hour time limit on debate. Senators supporting the attacked programs would not be protected with the rights of debate available under the normal rules of the Senate.

These floor amendments could target a wide range of federal programs, benefits, services and tax provisions with provisions that might not have been recommended by the Commission or any committee. Potentially hundreds of federal activities could be eliminated or modified by floor amendments with an automatic 1-hour limit on debate. The potential list includes, for example, disaster loans, low-cost electricity programs; tax advantages for empowerment zones; small business tax provisions and support programs; farm programs; tax incentives for historic structures; tax assistance to meet requirements of the Americans with Disabilities Act; veterans programs; child care tax provisions; transportation tax provisions and support programs; low income housing programs; Bureau of Reclamation irrigation programs; manufacturing support programs; road and timber programs in national forests; and so on.

The list of possible targets is long and varied, and I could support reforms for many of them, but that's not the point. The point is that supporters of the targeted programs could have one hour or less to defend them. That's the bill's intent, and it strikes at the heart of the Senate's traditional deliberative process which values the rights of the minority as well as the rights of the majority.

It's one thing to force the Senate to face a difficult issue by ensuring that a bill comes to the Senate floor. It's another to severely limit debate in the Senate when addressing far reaching legislation.

S. 1376 seems to provide each floor amendment with an hour of debate, but we all know that if a substantial number of amendments were to be offered on the floor, the allotted time per amendment would quickly shrink, as happened this year with other fast-track bills. The bill's overall 30-hour limit means that we could easily end up voting on numerous, complex or far reaching amendments with little or no debate.

Fast-track procedures for the consideration of bills are not the norm in the Senate and should be invoked rarely. These procedures were used to approve a list of military base closings, because the topic was a narrow one and there was no danger of Senators proposing fundamental changes to important programs. Fast-track procedures are also used on budget reconciliation bills, but only

with the added protections of the Byrd Rule barring amendments on extraneous matters and the subject matter limitations which restricts floor amendments to mandatory spending programs. Even with these added protections, the result this year has been votes on complex amendments with virtually no discussion. Debate itself has been silenced by hours of roll call votes. We should be finding ways to limit the abuses of this process, not extend the process to another bill, especially one that could reach across such a wide spectrum of government programs.

The corporate subsidies bill could conceivably propose hundreds of statutory changes, followed by a mountain of amendments proposing different changes. When combined with time limits on debate and a lack of adequate subject matter limitations on amendments, the result could be budget reconciliation magnified twice over.

To prevent that result, it seems to me that one of two courses must be followed. Either the 30-hour, 1-hour and 5-hour time limits must be lifted, or additional subject matter restrictions on Senate floor amendments must be imposed.

Sponsors of S. 1376 acknowledge some discomfort with the fast-track procedures in the bill, but content that these procedures are their only way to force Congress to trim inequitable corporate subsidies. But I believe a distinction could and should be made with respect to the types of fast-track procedures being proposed. Those in the first half of the bill, which identify inequitable subsidies and bring a bill to the Senate floor, do no great harm to the Senate as an institution. But those that apply after a bill has been brought to the Senate floor, imposing severe time limits on debate, undermine adequate consideration of important issues.

I hope to work with the bill sponsors, who have shown much comity in accepting other suggestions to improve their bill, to either lift the time limits or develop additional subject matter limitations for Senate floor amendments. Only with additional protections will we be able to avoid the legislative dangers, including severe restrictions on debate, that could result from this well-intended bill.

CARL LEVIN.

X. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1376, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

There are no modifications of existing law. The full text of the bill is new language as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Corporate Subsidy Review, Reform, and Termination Act of 1996”.

SEC. 2. FINDINGS.

The Congress finds that—

(1) Federal subsidies, including tax advantages, which may have been enacted with a valid purpose for specific industries or industry segments can—

(A) fall subject to abuse, causing unanticipated and unjustified windfalls to some industries and industry segments; or

(B) become obsolete, anticompetitive, or no longer in the public interest, making such subsidies unnecessary or undesired;

(2) it is unfair to force the United States taxpayer to support unnecessary subsidies, including tax advantages, that do not provide a substantial public benefit or serve the public interest;

(3) the Congress and the President have been unable to evaluate methodically those Federal subsidies that are unfair and unnecessary and require reform or elimination; and

(4) a Commission to advise the President and Congress is essential to a comprehensive review of such unfair corporate subsidies and to the reform or elimination of such subsidies.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a fair and deliberative process that will result in the timely identification, review, and reform or elimination of unnecessary and inequitable subsidies, including tax advantages, provided by the Federal Government to entities or industries engaged in profitmaking enterprises.

SEC. 4. DEFINITION.

For purposes of this Act, the term “inequitable Federal subsidy” means a payment, benefit, service, or tax advantage that—

(1) is provided by the Federal Government to any corporation, partnership, joint venture, association, or business trust, not to include—

(A) a nonprofit organization described under section 501(c)(3) of the Internal Revenue Code of 1986 that is ex-

empt from taxation under section 501(a) of the Internal Revenue Code of 1986; or

(B) a State or local government or Indian Tribe;

(2) is provided without a reasonable expectation, demonstrated with the use of reliable performance criteria, that actions or activities undertaken or performed in return for such payment, benefit, service, or tax advantage would result in a return or benefit, quantifiable or nonquantifiable, to the public at least as great as the payment, benefit, service, or tax advantage;

(3) provides an unfair competitive advantage or financial windfall; and

(4) shall not include a payment, benefit, service, or tax advantage that—

(A)(i) is awarded for the purposes of research and development in the broad public interest on the basis of a peer review or other open, competitive, merit-based procedure;

(ii) is for a purpose consistent with the mission of the agency;

(iii) supports competing technologies at levels appropriate to their potential, as determined by an appropriate priority setting process; and

(iv) is for research and development that the private sector cannot reasonably be expected to undertake without Federal support at a level or in a time frame consistent with the payment, benefit, service, or tax advantage's potential to provide broad economic or other public benefit;

(B) primarily benefits public health, safety, the environment, or education;

(C) is necessary to comply with international trade or treaty obligations;

(D) is certified by the United States Trade Representative as specifically intended and as substantially needed to protect the foreign trade interests of the United States; or

(E) is for the purpose of procurement of property or services by the United States Government.

SEC. 5. THE COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the “Corporate Subsidy Review, Reform, and Termination Commission” (hereafter in this Act, referred to as the “Commission”).

(b) DUTIES.—The Commission shall—

(1) examine the programs and tax laws of the Federal Government and identify programs and tax laws that provide inequitable Federal subsidies;

(2) review inequitable Federal subsidies; and

(3) submit the report required under section 6(b) to the President and the Congress.

(c) LIMITATIONS.—

(1) CREATION OF NEW PROGRAMS OR TAXES.—This Act is not intended to result in the creation of new programs or taxes, and the Commission established in this section shall limit its activities to reviewing existing programs or tax laws with the goal of ensuring fairness and equity in the operation and application thereof.

(2) *ELIMINATION OF AGENCIES AND DEPARTMENTS.*—The Commission shall limit its recommendations to the termination or reform of payments, benefits, services, or tax advantages, rather than the termination of Federal agencies or departments.

(d) *ADVISORY COMMITTEE.*—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) *APPOINTMENT.*—

(1) *MEMBERS.*—The Commissioners shall be appointed for the life of the Commission and shall be composed of 9 members of whom—

(A) 3 shall be appointed by the President of the United States;

(B) 2 shall be appointed by the Speaker of the House of Representatives;

(C) 1 shall be appointed by the Minority Leader of the House of Representatives;

(D) 2 shall be appointed by the Majority Leader of the Senate; and

(E) 1 shall be appointed by the Minority Leader of the Senate.

(2) *CONSULTATION REQUIRED.*—The President, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate shall consult among themselves prior to the appointment of the members of the Commission in order to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission under subsection (b).

(3) *NOMINATIONS.*—After the date of the Presidential inauguration in January 1997 and before January 31, 1997, the President shall submit to the Senate the names of 3 individuals for appointment to the Commission.

(4) *FAILURE TO APPOINT.*—If the President does not submit to Congress the names of 3 individuals for appointment to the Commission on or before the date specified in paragraph (3), the process established under this Act shall be terminated.

(5) *CHAIRMAN.*—At the time the President nominates individuals for appointment to the Commission the President shall designate 1 such individual who shall serve as Chairman of the Commission.

(6) *BACKGROUND.*—The members shall represent a broad array of expertise covering, to the extent practical, all subject matter, programs, and tax laws the Commission is likely to review.

(f) *TERMS.*—Each member of the Commission including the Chairman shall serve until the termination of the Commission.

(g) *MEETINGS.*—

(1) *INITIAL MEETING.*—No later than April 1, 1997, the Commission shall conduct its first meeting.

(2) *OPEN MEETINGS.*—Each meeting of the Commission shall be open to the public. In cases where classified information, trade secrets, or personnel matters are discussed, the Chairman may close the meeting. All proceedings, information, and delib-

erations of the Commission shall be available, upon request, to the Chairman and Ranking Member of the relevant committees of Congress.

(h) *VACANCIES.*—A vacancy on the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(i) *PAY AND TRAVEL EXPENSES.*—

(1) *PAY.*—Notwithstanding section 7 of the Federal Advisory Committee Act (5 U.S.C. App.), each Commissioner, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(2) *CHAIRMAN.*—Notwithstanding section 7 of the Federal Advisory Committee Act (5 U.S.C. App.), the Chairman shall be paid for each day referred to in paragraph (1) at a rate equal to the daily payment of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(3) *TRAVEL EXPENSES.*—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(j) *DIRECTOR OF STAFF.*—

(1) *QUALIFICATIONS.*—The Chairman shall appoint a Director who has not served in any of the entities or industries that the Commission intends to review during the 12 months preceding the date of such appointment.

(2) *PAY.*—Notwithstanding section 7 of the Federal Advisory Committee Act (5 U.S.C. App.), the Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) *REPORTS.*—On administrative and personnel matters, the Director shall submit periodic reports to the Chairman of the Commission and the Chairman and Ranking Member of the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of the Representatives.

(k) *STAFF.*—

(1) *ADDITIONAL PERSONNEL.*—Subject to paragraphs (2) and (4), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(2) *APPOINTMENTS.*—The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(3) *DETAILEES.*—Upon the request of the Director, the head of any Federal department or agency may detail any of the person-

nel of that department or agency to the Commission to assist the Commission in accordance with an agreement entered into with the Commission.

(4) *RESTRICTIONS ON PERSONNEL AND DETAILEES.*—The following restrictions shall apply to personnel and detailees of the Commission:

(A) *PERSONNEL.*—No more than one-third of the personnel detailed to the Commission may be on detail from Federal agencies that deal directly or indirectly with the Federal subsidies the Commission intends to review.

(B) *ANALYSTS.*—No more than one-fifth of the professional analysts of the Commission may be persons detailed from a Federal agency that deals directly or indirectly with the Federal subsidies the Commission intends to review.

(C) *LEAD ANALYST.*—No person detailed from a Federal agency to the Commission may be assigned as the lead professional analyst with respect to an entity or industry the Commission intends to review if the person has been involved in regulatory or policy-making decisions affecting any such entity or industry in the 12 months preceding such assignment.

(D) *DETAILEE.*—A person may not be detailed from a Federal agency to the Commission if, within 12 months before the detail is to begin, that person participated personally and substantially in any matter within that particular agency concerning the preparation of recommendations under this Act.

(E) *FEDERAL OFFICER OR EMPLOYEE.*—No member of a Federal agency, and no officer or employee of a Federal agency, may—

(i) prepare any report concerning the effectiveness, fitness, or efficiency of the performance on the staff of the Commission of any person detailed from a Federal agency to that staff;

(ii) review the preparation of such report; or

(iii) approve or disapprove such a report.

(F) *LIMITATION ON STAFF SIZE.*—(i) Subject to clause (ii), there may not be more than 25 persons (including any detailees) on the staff at any time.

(ii) The Commission may increase personnel in excess of the limitation under clause (i), 15 days after submitting notification of such increase to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

(G) *LIMITATION ON FEDERAL OFFICER.*—No member of a Federal agency and no employee of a Federal agency may serve as a Commissioner or as a paid member of the staff.

(5) *ASSISTANCE.*—

(A) *IN GENERAL.*—The Comptroller General of the United States may provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(B) *CONSULTATION.*—The Commission and the Comptroller General of the United States shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives on the agreement referred to under subparagraph (A) before entering into such agreement.

(l) *OTHER AUTHORITY.*—

(1) *EXPERTS AND CONSULTANTS.*—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) *LEASING.*—The Commission may lease space and acquire personal property to the extent that funds are available.

(m) *FUNDING.*—

(1) *COMMISSION.*—There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this Act.

(2) *COMPTROLLER GENERAL.*—There are authorized to be appropriated to the Comptroller General of the United States such funds as are necessary to carry out its duties under subsection (k)(5) and section 6(b)(5).

(n) *TERMINATION.*—The Commission shall terminate on September 1, 1998.

SEC. 6. PROCEDURE FOR MAKING RECOMMENDATIONS TO TERMINATE CORPORATE SUBSIDIES.

(a) *AGENCY PLAN.*—

(1) *IN GENERAL.*—No later than April 1, 1997, or the date budget documents are submitted to Congress in 1997, whichever is earlier, in support of the budget of each Federal department or agency, the head of each department or agency shall include in such documents a list identifying all programs or tax laws that the head of the department or agency determines provide inequitable Federal subsidies.

(2) *CONTENTS.*—Such a list shall include—

(A) a detailed description of each program or tax law in question;

(B) a statement detailing the extent to which a payment, benefit, service, or tax advantage meets the provisions of section 4;

(C) a statement summarizing the legislative history and purpose of such payment, benefit, service, or tax advantage, and the laws or policies directly or indirectly giving rise to the need for such programs or tax laws; and

(D) a recommendation to the Commission regarding actions to be taken under section 5(b)(3).

(3) *INTERNATIONAL TRADE PROGRAMS.*—As part of its agency plan submitted pursuant to this subsection, the United States Trade Representative shall survey all federally supported international trade programs in all Federal agencies and shall certify to the Commission which of those programs meet the requirements of section 4(4)(D). The Trade Representative shall provide the Commission a detailed statement of the reasons

each program was or was not so certified as part of its agency plan.

(b) *REVIEW AND RECOMMENDATIONS BY THE COMMISSION.*—

(1) *REVIEW AND HEARINGS.*—At any time after the submission of the budget documents to Congress, the Commission shall conduct public hearings on the recommendations included in the lists required under subsection (a). All testimony before the Commission at a public hearing conducted under this paragraph shall be presented under oath.

(2) *REPORT OF COMMISSION.*—

(A) *REPORT TO PRESIDENT.*—No later than November 30, 1997, the Commission shall submit a report to the President containing the Commission's findings and recommendations for termination, modification, or retention of each of the inequitable Federal subsidies reviewed by the Commission. Such findings and recommendations shall specify—

(i) all actions, circumstances, and considerations relating to or bearing upon the recommendations; and

(ii) to the maximum extent practicable, the estimated effect of the recommendations upon the policies, laws and programs directly or indirectly affected by the recommendations.

(B) *CHANGES IN RECOMMENDATIONS.*—Subject to the deadline in subparagraph (A), in making its recommendations, the Commission may make changes in any of the recommendations made by a department or agency if the Commission determines that such department or agency deviated substantially from the provisions of section 4.

(C) *CHANGES.*—In the case of a change in the recommendations made by a department or agency, the Commission may make the change only if the Commission—

(i) makes the determination required under subparagraph (B); and

(ii) conducts a public hearing on the Commission's proposed changes.

(D) *APPLICATION.*—Subparagraph (C) shall apply to a change by the Commission in a department or agency recommendation that would—

(i) add or delete a payment, benefit, service, or tax advantage to the list recommended for termination;

(ii) add or delete a payment, benefit, service, or tax advantage to the list recommended for modification; or

(iii) increase or decrease the extent of a recommendation to modify a payment, benefit, service, or tax advantage included in a department's or agency's recommendation.

(3) *JUSTIFICATION.*—The Commission shall explain and justify in the report submitted to the President under paragraph (2) any recommendation made by the Commission that is different from a recommendation made by an agency under subsection (a).

(4) *REPORT TO CONGRESS.*—After November 30, 1997, or after the date the Commission submits recommendations to the Presi-

dent, the Commission shall, upon request, promptly provide to any Member of Congress the information used by the Commission in making its recommendations.

(5) *COMPTROLLER GENERAL.*—The Comptroller General of the United States shall—

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the list, statements, and recommendations made by departments and agencies under subsection (a); and

(B) no later than 60 days after April 1, 1997, or the public release of the President's budget documents in 1997, whichever is earlier, submit to the Congress and to the Commission a report containing a detailed analysis of the list, statements, and recommendations of each department or agency.

(c) *REVIEW BY THE PRESIDENT.*—

(1) *IN GENERAL.*—No later than December 31, 1997, the President shall submit a report to the Commission and to the Congress containing the President's approval or disapproval of the Commission's recommendations submitted under subsection (b).

(2) *APPROVAL.*—If the President approves all the recommendations of the Commission, the President shall submit a copy of such recommendations to the Congress, together with a certification of such approval.

(3) *DISAPPROVAL.*—If the President disapproves the recommendations of the Commission in whole or in part, the President shall submit to the Commission and the Congress the reasons for that disapproval. The Commission shall then submit to the President, no later than February 1, 1998, a revised list of recommendations.

(4) *REVISION.*—If the President approves all of the revised recommendations of the Commission submitted to the President under paragraph (3), the President shall submit a copy of such revised recommendations to the Congress, together with a certification of such approval.

(5) *APPROVAL OF ENTIRE PACKAGE.*—The President may only submit an approval certificate that pertains to the entire package of recommendations submitted by the Commission under subsection (b)(2) or paragraph (3) of this subsection.

(6) *FAILURE TO SUBMIT.*—If the President does not submit to the Congress an approval and certification described in paragraph (2) or (4) by February 15, 1998, the process established under this Act shall be terminated.

SEC. 7. CONGRESSIONAL CONSIDERATION.

(a) *SUBMISSION OF RECOMMENDATIONS OF THE PRESIDENT.*—If the President submits the Commission recommendations to the Congress under section 6(c) (2) or (4), such recommendations shall be accompanied by information specifying—

(1) the reasons and justifications for the recommendations;

(2) to the maximum extent practicable, the estimated fiscal, economic, and budgetary impact of accepting the recommendations;

(3) the amount of the projected savings resulting from each recommendation;

(4) *all actions, circumstances, and considerations relating to or bearing upon the recommendations and to the maximum extent practicable, the estimated effect of the recommendations upon the policies, laws and programs directly or indirectly affected by the recommendations; and*

(5) *the specific changes in Federal statute necessary to implement the recommendations.*

(b) *SUBMISSION OF RECOMMENDATIONS TO THE SENATE AND HOUSE OF REPRESENTATIVES.—*

(1) *SUBMISSION TO CONGRESS.—The recommendations submitted by the President to the Congress under subsection (a) shall be submitted to the Senate and the House of Representatives on the same day, and shall be delivered to the Secretary of the Senate if the Senate is not in session, and to the Clerk of the House of the Representatives if the House is not in session.*

(2) *FEDERAL REGISTER.—Any recommendations and accompanying information submitted under subsection (a) shall be printed in the first issue of the Federal Register after such submission.*

(c) *INTRODUCTION.—*

(1) *DATE OF INTRODUCTION.—The Majority Leader of the Senate or his designee, and the Speaker of the House of Representatives, or his designee, shall introduce a bill (or bills as provided under paragraph (2)) that implements the recommendations submitted by the President under subsection (a), no later than the later of 14 calendar days in session after the date on which—*

(A) the Senate or the House of Representatives received the recommendations submitted by the President under subsection (a), if the Senate or the House of Representatives (as applicable) is in session on the date of such submission; or

(B) the Senate or the House of Representatives is first in session after such recommendations are submitted, if the Senate or the House of Representatives (as applicable) is not in session on the date of such submission.

(2) *MULTIPLE BILLS.—The Majority Leader of the Senate, or his designee, or the Speaker of the House of Representatives, or his designee, shall introduce a bill or separate bills ensuring that all such recommendations will be implemented.*

(d) *COMMITTEE REFERRAL AND ACTION.—*

(1) *IN GENERAL.—Any committee to which a bill or bills introduced under subsection (c) is referred shall report such bill no later than 120 calendar days after the date of referral. Any such reported bill shall be referred to the Committee on Governmental Affairs of the Senate or the Committee on Government Reform and Oversight of the House of Representatives, as applicable.*

(2) *DISCHARGE.—If a committee does not report a bill within the 120-day period as provided under paragraph (1), such bill shall be discharged from the committee and referred to the Committee on Governmental Affairs of the Senate or the Com-*

mittee on Government Reform and Oversight of the House of Representatives, as applicable.

(3) *REPORT TO FLOOR; CONSOLIDATION.*—

(A) *IN GENERAL.*—No later than the first day the Senate or the House of Representatives (as applicable) is in session following 10 calendar days in session after the end of the 120-day period described under paragraphs (1) and (2), the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, as applicable, shall—

(i) consolidate all bills referred under paragraphs (1) and (2) into a single bill (without substantive amendment) and report such bill to the Senate or the House of Representatives; or

(ii) if only 1 bill is referred under paragraph (1) or (2), report such bill (without amendment) to the Senate or House of Representatives.

(B) *LEGISLATIVE CALENDAR.*—The bill reported under subparagraph (A) shall be placed on the legislative calendar of the appropriate House.

(e) *PROCEDURE IN SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS.*—

(1) *DEBATE ON BILL.*—Debate in the Senate on a bill reported by the Committee on Governmental Affairs under subsection (d)(3), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours. The time shall be equally divided between, and controlled by, the Majority Leader and Minority Leader or their designees.

(2) *DEBATE ON AMENDMENTS.*—Debate in the Senate on any amendment to the bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such amendment, motion or appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee. The manager of the bill, the Majority Leader, or the Minority Leader may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any amendment to the bill.

(3) *LIMIT OF DEBATE.*—(A) A motion to further limit debate is not debatable. A motion to recommit is not in order.

(B) No amendment not germane to the bill reported by the Committee on Governmental Affairs under subsection (d)(3) shall be in order.

(4) *CONFERENCE REPORTS.*—

(A) *MOTION TO PROCEED.*—A motion to proceed to the consideration of the conference report on a bill subject to the procedures of this section and reported to the Senate may be made even though a previous motion to the same effect has been disagreed to.

(B) *TIME LIMITATION.*—The consideration in the Senate of the conference report on the bill and any amendments in disagreement thereto, including all debatable motions and appeals in connection therewith, shall be limited to 5 hours, to be equally divided between, and controlled by, the Majority Leader and Minority Leader or their designees. Debate on any debatable motion, appeal related to the conference report, or any amendment to an amendment in disagreement, shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

(f) *PROCEDURE IN HOUSE OF REPRESENTATIVES AFTER REPORT OF THE COMMITTEE; DEBATE.*—

(1) *MOTION TO CONSIDER.*—When the Committee on Government Reform and Oversight of the House of Representatives reports a bill under subsection (d)(3) it is in order (at any time after the fifth day (excluding Saturdays, Sundays, and legal holidays) following the day on which any committee report filed on a bill referred under subsection (d)(1) to the Committee on Government Reform and Oversight has been available to Members of the House) to move to proceed to the consideration of the bill reported to the House of Representatives. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) *DEBATE.*—General debate on the bill in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to postpone debate is not in order, and it is not in order to move to reconsider the vote by which the bill is agreed to or disagreed to.

(3) *TERMS OF CONSIDERATION.*—Consideration of the bill by the House of Representatives shall be in the Committee of the Whole, and the bill shall be considered for amendment under the 5-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives. After the committee rises and reports the bill back to the House, the previous question shall be considered as ordered on the bill and any amendments thereto to final passage without intervening motion.

(4) *LIMIT ON DEBATE.*—Debate in the House of Representatives on the conference report on a bill subject to the procedures under this section and reported to the House of Representatives shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to commit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to. A motion to postpone is not in order.

(5) *APPEALS.*—Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to

the procedure relating to the bill shall be decided without debate.

(g) *RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—*
This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a bill under this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules as far as relating to the procedure of that House at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

Amend the title so as to read: “A bill to review, reform, and terminate unnecessary and inequitable Federal subsidies.”.

